

AMENDED IN SENATE AUGUST 31, 2011

AMENDED IN SENATE AUGUST 18, 2011

AMENDED IN SENATE AUGUST 15, 2011

AMENDED IN SENATE JULY 5, 2011

AMENDED IN SENATE JUNE 29, 2011

AMENDED IN ASSEMBLY MAY 27, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 375

Introduced by Assembly Member Skinner
(Principal coauthor: Senator Alquist)

February 14, 2011

An act to add Section 3212.13 to the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 375, as amended, Skinner. Workers' compensation: hospital employees: presumption.

Existing law provides that an injury of an employee arising out of and in the course of employment is generally compensable through the workers' compensation system. Existing law provides that, in the case of certain public employees, the term "injury" includes heart trouble, hernia, pneumonia, human immunodeficiency virus, lower back impairment, and other injuries and diseases.

This bill would provide, with respect to hospital employees who provide direct patient care in an acute care hospital, *as defined*, that the term "injury" includes a bloodborne infectious disease, as defined, or

methicillin-resistant *Staphylococcus aureus* (MRSA) that develops or manifests itself during the period of the person's employment with the hospital.

This bill would further create a disputable presumption that the above injury arises out of and in the course of the person's employment if it develops or manifests as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) According to the United States Department of Labor, health
4 care is the second fastest growing sector of the United States
5 economy, employing over 12 million workers. Women represent
6 nearly 80 percent of the health care work force.

7 (b) By the nature of their profession, health care workers are in
8 constant danger of being directly exposed to many infectious
9 diseases and indirectly exposed through contact with various pieces
10 of equipment, chemicals, and clothing.

11 (c) Registered nurses constitute the largest occupation within
12 the health care sector and number over 2.5 million, of which 70
13 percent are employed in hospitals.

14 (d) The federal Centers for Disease Control and Prevention's
15 National Institute for Occupational Safety and Health has estimated
16 that 600,000 to 800,000 needlestick and other percutaneous injuries
17 occur annually in hospitals in the United States.

18 (e) Health care acquired infections in California hospitals
19 account for an estimated 200,000 infections and 12,000 deaths
20 annually, according to the State Department of Public Health.

21 (f) According to the Office of Statewide Health Planning and
22 Development, in 2007 there were 52,000 cases of MRSA-infected
23 patients at hospitals across the state.

24 (g) Public safety employees, such as police officers and
25 firefighters, already have guaranteed access to the workers'
26 compensation system for MRSA, HIV, cancer, leukemia,
27 meningitis, back injuries, and other work-related illnesses and
28 injuries. However, presumptive eligibility for workers'
29 compensation is nonexistent for health care workers.

1 (h) Due to the rise in work-related illnesses and injuries,
2 including MRSA and other bloodborne diseases, it is most
3 appropriate to protect health care workers by ensuring access to
4 workers' compensation for health care workers who suffer
5 workplace injuries or contract infectious diseases.

6 SEC. 2. Section 3212.13 is added to the Labor Code, to read:

7 3212.13. (a) In the case of a hospital employee who provides
8 direct patient care in an acute care hospital, referred to in this
9 section as hospital employee, the term "injury," as used in this
10 section, includes a bloodborne infectious disease or
11 methicillin-resistant *Staphylococcus aureus* (MRSA) that develops
12 or manifests itself during a period of the person's employment
13 with the hospital. The compensation awarded for that injury shall
14 include full hospital, surgical, medical treatment, disability
15 indemnity, and death benefits, as provided by this division.

16 (b) (1) The bloodborne infectious disease or MRSA so
17 developing or manifesting itself shall be presumed to arise out of
18 and in the course of employment. This presumption is disputable
19 and may be controverted by other evidence, but unless so
20 controverted, the appeals board shall so find.

21 (2) The bloodborne infectious disease presumption shall be
22 extended to a hospital employee following termination of service
23 for a period of 180 days, commencing with the last date actually
24 worked.

25 (3) The MRSA presumption shall be extended to a hospital
26 employee following termination of service for a period of 90 days,
27 commencing with the last day actually worked.

28 (c) The bloodborne infectious disease or MRSA so developing
29 or manifesting itself in those cases shall not be attributed to any
30 disease or skin infection existing prior to that development or
31 manifestation.

32 (d) For the purposes of this section, "bloodborne infectious
33 disease" means a disease caused by exposure to pathogenic
34 microorganisms that are present in human blood that can cause
35 disease in humans, including those pathogenic microorganisms
36 defined as bloodborne pathogens by the Department of Industrial
37 Relations.

- 1 (e) *For the purposes of this section, “acute care hospital” means*
- 2 *a health facility as defined in subdivision (a) or (b) of Section 1250*
- 3 *of the Health and Safety Code.*